

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)	
)	
Meredith Corporation)	Facility ID No. 72120
Licensee of WGCL-TV, Atlanta, GA)	NAL/Acct. No. 0641420011
)	FRN: 0005810726

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: December 6, 2005

Released: December 9, 2005

By the Chief, Media Bureau:

I. INTRODUCTION

1. The Commission, by the Chief, Media Bureau, pursuant to delegated authority, has before it for consideration a license renewal application for the captioned television station in Atlanta, Georgia. We find that Meredith Corporation, licensee of station WGCL-TV, Atlanta, Georgia, willfully and repeatedly violated Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii) of the Commission's Rules (Rules) by failing to place in the station's public inspection file TV issues/programs lists and records concerning compliance with the children's programming commercial limits.¹ For the reasons set forth below, we find Meredith Corporation apparently liable in the amount of ten thousand dollars (\$10,000) for its violation of Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii) of the Rules.

II. BACKGROUND

2. In the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394, Congress directed the Commission to adopt rules, *inter alia*, limiting the amount of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewals the extent to which the licensee has complied with such commercial limits. Accordingly, the Commission adopted Section 73.670 of the Rules, 47 C.F.R. § 73.670, which limits the amount of commercial matter which may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. *Children's Television Programming*, 6 FCC Rcd 2111, 2118, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991). The commercial limitations became effective on January 1, 1992. *Children's Television Programming*, 6 FCC Rcd 5529, 5530 (1991).

3. Moreover, Section 73.3526 of the Rules requires broadcast licensees to maintain a

¹ 47 C.F.R. §§ 73.3526(e)(11)(i) and 73.3526(e)(11)(ii).

public inspection file containing specific types of information related to station operations.² As set forth in Section 73.3526(e)(11)(ii) of the Rules, each commercial television broadcast station is required to place in its public inspection file on a quarterly basis, records sufficient to allow substantiation of the licensee's certification in its renewal application, of compliance with the children's television commercial limits. Further, Section 73.3526(e)(11)(i) provides that a TV issues/programs list is to be placed in a commercial TV broadcast station's public inspection file each calendar quarter. Section 73.3526 also requires licensees to place records concerning commercial limits and TV issues/programs lists in the public inspection file by the tenth day of the succeeding calendar quarter. Where lapses occur in maintaining the public file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.³

4. On December 1, 2004, the licensee filed a license renewal application (FCC Form 303-S) for station WGCL-TV, Atlanta, Georgia (File No. BRCT-20041201AVN). In response to Section IV, Question 3 of that application, the licensee certified that, during the previous license term, station WGCL-TV failed to place in its public inspection file at the appropriate times, all of the documentation required by Section 73.3526 of the Commission's Rules. In Exhibit 17 to that application, the licensee indicates that during preparation of the instant application, it discovered that some TV issues/programs lists and documents evidencing compliance with the commercial limits in children's programming were missing from the station's public inspection file. Specifically, the licensee claims that in November 2004, it located in non-public files and placed in the station's public inspection file, copies of TV issues/programs lists for the second, third, and fourth quarters of 1999, the first and second quarters of 2000, and all of 2001 and 2002. Further, the licensee reports that after reviewing its records, it recreated and placed in the public file TV issues/programs lists for the third and fourth quarters of 2000, and documentation of compliance with the commercial limits in children's programming for all of 1999, first three quarters of 2000, and the second quarter of 2001.

III. DISCUSSION

5. Station WGCL-TV's failure to retain in its public inspection file TV issues/programs lists and records concerning compliance with the children's programming commercial limits constitutes a willful and repeated violation of Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii). While corrective actions may have been taken to prevent future violations, this does not relieve it of the violations which have occurred. *International Broadcasting Corp.*, 19 FCC 2d 793 (1969).

6. Section 503(b) of the Communications Act of 1934, as amended (Act) provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.⁴ In determining the appropriate forfeiture amount, we must consider the factors

² See 47 C.F.R. § 73.3526.

³ See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)); *Surrey Range Limited Partnership*, 71 RR 2d 882 (FOB 1992).

⁴ 47 U.S.C. § 503(b).

enumerated in Section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”⁵

7. *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines (Forfeiture Policy Statement)* and Section 1.80 of the Rules establish a base forfeiture amount of \$10,000 for public file violations.⁶ In this case, the licensee acknowledges that the station’s records concerning compliance with commercial limits on children’s programming and TV issues/programs lists for several quarters were missing from the public inspection file. Moreover, it appears that the licensee did not discover these deficiencies until it prepared the instant renewal application. Considering the record as a whole, we believe that a \$10,000 forfeiture is appropriate for the violations in this case.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission’s Rules,⁷ Meredith Corporation is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violations of Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii) of the Commission’s Rules as indicated above.⁸

9. IT IS FURTHER ORDERED, That pursuant to Section 1.80 of the Commission’s Rules, within thirty days of the release date of this Notice, Meredith Corporation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340,

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Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term “willful”, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by the Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

Section 312(f)(2) of the Act provides that “[t]he term “repeated,” when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

⁵ 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Rcd 17087, 17100 (1997), recon. denied, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4).

⁶ 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section I. Base Amounts for Section 503 Forfeitures; *Forfeiture Policy Statement*, 12 FCC Rcd at 17113, Appendix A, Section I.

⁷ 47 C.F.R. §§ 0.283 and 1.80.

⁸ 47 C.F.R. §§ 73.3526(e)(11)(i) and 73.3526(e)(11)(ii).

500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under the installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

10. IT IS FURTHER ORDERED that, a copy of this Notice shall be sent by First Class and Certified Mail, Return Receipt Requested to the licensee at Television Station WGCL-TV, 1716 Locust Street, Des Moines, Iowa, 50309-3203, and to its attorney of record, Kevin P. Latek, Esquire, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Donna C. Gregg
Chief, Media Bureau

⁹ See 47 C.F.R. § 1.1914.